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October 1, 2002

The Honorable Christine Todd Whitman  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC, 20460

Dear Administrator Whitman:

I am writing to request certain information related to enforcement actions brought by the EPA.

As you know, on March 4, 2002, I wrote to you and requested a list of all EPA enforcement actions initiated or completed since January 1, 1998, which you provided in late April, when you sent me a CD-ROM containing records for more than 20,000 enforcement Administrative and Judicial Actions taken by the EPA in response to violations of environmental laws and regulations including the Clean Water Act, the Clean Air Act, Superfund, the Emergency Planning and Community Right to Know Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Resource Conservation and Recovery Act, the Safe Drinking Water Act and the Toxic Substances Control Act.

Over the next several months, my staff analyzed the data in order to arrive at meaningful and accurate comparisons between EPA Administrative environmental enforcement activities undertaken during the Clinton Administration and those undertaken by the Bush Administration. This analysis (attached) showed that:

- The Bush Administration initiated 40-50% fewer EPA Administrative Actions against polluting companies as the Clinton Administration did.
- The total cost of penalties and remedies recovered from environmental Administrative Actions initiated and settled against polluting companies by the Bush Administration dropped by more than 80% as compared to that recovered by the Clinton Administration (\$165,066,975 vs \$845,142,719).
- The average settlement cost of environmental Administrative Actions initiated and settled against polluting companies by the Bush Administration dropped by 62.9% as compared to that negotiated by the Clinton Administration (\$86,558.45 vs \$233,593.90).

- The ratio of the final settlement cost to the proposed penalty of environmental Administrative Actions initiated and settled against polluting companies by the Bush Administration was 1.72, compared to 7.13 for the Clinton Administration.

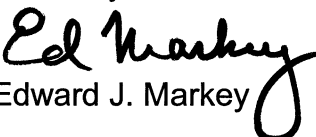
Businesses that fully comply with federal environmental laws are harmed when those who fail to comply are not subject to enforcement action. If the laws are not enforced, dishonest competitors can put honest businesses out of business simply by continuing to pollute while avoiding the expenses associated with preventing pollution that are incurred by honest competitors. Therefore, every honest businessman has a critical stake in the government holding companies accountable when they cut corners by polluting. If honesty is to pay, honest businesses must depend on vigorous enforcement of our environmental laws. I am concerned that the dramatic reduction in numbers of and settlements for EPA Administrative Actions that has occurred during the Bush Administration could lead polluting companies to conclude that there is no incentive for reducing pollution. I urge you to take all necessary steps to ensure that this worrisome trend is reversed.

Judicial Actions, which are an equally important measure of enforcement activity, are not as numerous as Administrative Actions and tend to take longer to conclude. Since the data you provided me only covered actions initiated or completed by March 7, 2002, I request your assistance and cooperation in providing a CD-ROM containing all EPA civil and administrative enforcement actions initiated or completed between January 1, 1998 and September 30, 2002 (when your docket activities for the fiscal year will be completed). For each such action, please provide:

- the date the action was initiated
- the date it was completed (where applicable)
- the name of the facility against which the action was taken
- the name of the parent corporation that owns the facility
- for actions that have not yet been completed, the estimated costs of the penalties, supplemental environmental projects or corrective action plans that the EPA is seeking
- the outcome of the action (where applicable), including the amount of the financial penalty or settlement, the supplemental environmental project (and its cost) or corrective action plan (and its cost).

Thank you very much for your prompt attention to this important matter. Please provide the requested materials no later than close of business Friday October 18, 2002. If you have any questions or concerns, please have your staff contact Dr. Michal Freedhoff or Mr. Jeff Duncan of my staff at 202-225-2836.

Sincerely,

  
Edward J. Markey